

ORDINANCE 94-1

Zoning Ordinance for Newton County

SECTION 1.00.

AUTHORITY AND PURPOSE

This Ordinance is adopted pursuant to the authority of the 600 SERIES IC 36-7-4, and all acts amendatory and supplemental thereto. This Ordinance is adopted for the following purposes:

Securing adequate light, air, convenience of access, and safety from fire, flood, and other danger;
Lessening or avoiding congestion in public ways_
Promoting the public health, safety, comfort, morals, convenience, and general welfare_ Otherwise
accomplishing the purposes of Chapter 36-7 of the Indiana Code_
Implementing the Comprehensive Plan of Newton County, Indiana.

In order to accomplish these purposes, this Ordinance does the following:

Establishes districts for agricultural, commercial, industrial, residential, special or unrestricted uses and any subdivision or combination of these uses.

Regulates how real property is developed, maintained, and used, including the following:

- Requirements for the area of front, rear, and side yards, courts, other open spaces, and total lot area;

- Requirements for site conditions, signs, and non structural improvements, such as parking lots, ponds, fills, landscaping, and utilities;

- Provisions for the treatment of uses, structures, or conditions that are in existence at the time this Ordinance takes effect;

- Restrictions on development in areas prone to flooding;

- Requirements to protect the historic and architectural heritage of the community;

- Requirements for structures, such as location, height, area, bulk, and floor space;

- Restrictions on the kind and intensity of uses;

- Performance standards for the emission of noises, gases, heat, vibration, or particulate matter into the air or ground or across lot lines;

- Standards for population density and traffic circulation;

- Other provisions that are necessary to implement the purposes of this Ordinance.

In districts containing areas with special or unusual development problems or needs for compatibility, requires that the Plan Commission approve development plans for consistency with general development standards.

Provides for planned unit development

Establishes in which districts the subdivision of land may occur.

SECTION 1.10. TERRITORIAL LIMITS

The provisions of this Ordinance shall apply to all lands, properties, buildings and structures in the unincorporated portions of Newton County, Indiana, which are within the jurisdiction of the Newton County Plan Commission and included in the Newton County Comprehensive Plan.

SECTION 1.20. SUBDIVISION OF LAND

Subdivision of land may occur in any zoning district within the jurisdiction of the Plan Commission of Newton County.

SECTION 1.30. TITLE

This Ordinance shall be known and may be cited as "The Newton County, Indiana Zoning Ordinance.

SECTION 2.00. DEFINITION OF TERMS

For the purpose of this Ordinance, certain words and terms are defined as follows:

(Amended 3/20/95 VI-1-1-2-1A)

Words used in the present tense include the future; the singular number includes the plural and the plural the singular. The word "building" includes the word "structure." The word "shall" is mandatory. **(11/18/96 VI-1-1-1- 5A)**

Advertising Structure – See Ordinance No. 7 **(12/16/96 VI-1-1-1-6A)**

Accessory Apartment - A separate, complete housekeeping unit that is substantially contained within the structure of a single-family dwelling but can be isolated from it. **(9/20/99 VI-1-1-2-1A)**

Bed and Breakfast - A building in which rooms and the breakfast meal are regularly provided to transients for compensation. **(12/17/01 VI-1-1-1-8A)**

Bed and Breakfast Homestay - A bed and breakfast operated in a private, owner-occupied residence with one to three guest rooms. The bed and breakfast use is subordinate and incidental - to the residential use of the building.

Bed and Breakfast Inn - A Bed and Breakfast operated primarily as a business having four (4) to twenty (20) guest rooms. While the building may contain the residence of the owner/operator, the residential use is subordinate and incidental to the use as a business. Such use may include a restaurant which caters to the public as well as the overnight guests.

Board - The Board of Zoning Appeals for Newton County, Indiana.

Boarding House - A building not available to transients, in which lodging and meals are regularly provided for compensation for at least three (3) but not more than thirty (30) persons.

Building - Any roofed structure designed for the support, enclosure, shelter, or protection of persons, animals, chattels, or property of any kind, and includes any structure.

Building, Accessory (amended 2/5/96 VI-1-1-1-3A)

Building, Agricultural - A structure other than a dwelling utilized for the conduct of farming operations. .

Building, Apartment - A building providing more than two rooms or suites of rooms designed as single-family dwellings and with each including culinary accommodations.

Building, Principal- A building in which is conducted the main or principal use of the lot on which said building is situated.

Building Area - The horizontal projected area of the buildings on a lot, excluding open areas or terraces, unenclosed porches not more than one story high, and architectural features that project no more than two feet.

Building Commissioner - The Newton County Building Commissioner,'

Building Height - The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridges for gable, hip and gambrel roofs.

Building Setback Line - The line, established by this Ordinance, beyond which the foundation line of a building shall not extend unless varied according to procedures in this Ordinance. "Also called a "building line."

Business - An occupation, employment,. or enterprise which occupies time, attention, labor and . materials; or wherein merchandise is exhibited, sold, or where services are offered.

Camp, Public - An area of land used or designed to be used to accommodate two (2) or more camping parties, including cabins, tents, recreational vehicles, or other camping outfits, but not including a recreational vehicle park.

Child Care Center - A building, not a residence, where at least one child receives child care from a provider while unattended by a parent, legal guardian, or custodian, for regular compensation

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and for more than four hours but less than twenty-four hours in each often (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

Child Care Home (exempt) - The care of from one to five children in the primary residence of the care provided, specifically exempt from the licensing requirements of the State of Indiana under IC 12-17.2-2-8 (8) or IC 12-17.5-2-9 (8) shall be considered a home occupation as defined by this Ordinance.

Child Care Home - As defined by IC 12-7-2-28.6, means a residential structure in which at least six (6) but not more than sixteen (16) children, unrelated to the provider, receive child care from a provider. This term includes a Class I and a Class IT child care home as defined by IC 12-7-233.7 and IC 12-7-2-33.8.

Commission - The Newton County Plan Commission, Newton County, Indiana.

Confined Feeding - The confined feeding of animals for food, fur, or pleasure purposes in lots, pens, ponds, sheds, or buildings, where food is supplied to the animals by means other than grazing only.

Confined Feeding Operation - The confined feeding of one hundred (100) or more cattle, two hundred (200) or more swine, sheep, or goats, or ten thousand (10,000) or more poultry on a tract or contiguous tracts of land and/or any confinement feeding that exceeds the following number of animals per acre per year for the entire farm: three (3) or more head of cattle, twenty (20) or more head of swine, one thousand five hundred (1,500) or more head of poultry, ten (10) or more sheep or goats, four (4) or more head of horses or mules.

Confined Feeding Operator - The person in direct or responsible charge or control of one or more confined feeding operations.

Development - Any man-made change to improved or unimproved real estate including, but not limited to, buildings and other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation.,.

District - A zoning district established by this Ordinance.

Dwelling - Any structure, or portion thereof, which is designed or used exclusively for residential purposes.

Dwelling, Multi.Family - A dwelling consisting of three (3) or more dwelling units including condominiums.

Dwelling, Single-Family - A detached dwelling designed for or occupied by not more than one family, provided that such structure complies with the Indiana one- and two-family dwelling code.

Mobile homes, travel trailers, and similar structures or vehicles are not considered to be single family dwellings. .

Dwelling, Two-Family - A detached dwelling designed for or occupied by not more than two families.

Dwelling Unit - A room or group of rooms designed and equipped exclusively for use as living quarters for only one family and its household employees, including provisions for living, sleeping, cooking, and eating. The term shall include factory-built housing but not recreational vehicles.

Easement - An authorization or grant by a property owner to a specific person(s) or to the public to use land for specific purposes.

Educational Uses - public or private elementary or secondary schools, institutions of higher learning, boarding schools, and similar uses.

Essential Services - those land uses which are required in order for the community to provide adequate services to its citizens, including town halls, libraries, public utilities, sanitary landfills, incinerators, parking lots, fire and police stations, cemeteries, correctional institutions and similar uses. Any such use not operated by a unit of government or by a regulated utility shall not be included in this definition.

Factory-Built Housing - A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, designed for long-term residential use. For the purposes of this Ordinance, factory-built housing consists of modular homes, mobile homes, and manufactured homes. See definitions of each.

Family - One or more individuals related by blood, marriage or adoption living together as a single housekeeping unit; or a group of not more than four persons who need not be related, living together in a single housekeeping unit.

Farm - An area of not less than 20 acres used for agricultural operations including truck gardening, forestry, the operation of a tree or plant nursery, or the production of livestock and poultry or the processing of farm products produced on the farm by the resident owner or tenant, but not to include commercial or custom slaughtering.

Flood, Regulatory - See Ordinance No. 93-8.

Flood Plain - See Ordinance No.93-8.

Floor Area, Ground - The area of a building in square feet, as measured in a horizontal plane at the ground floor level within its largest outside dimensions, exclusive of open porches, breezeways, terraces, garages, and exterior stairways.

Health Care Use - means a medical, dental, psychological, psychiatric, or other similar clinic or hospital, whether public or private.

Home Occupation - An occupation conducted in a dwelling unit, provided that the use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants.

Hotel, Motel, and Apartment Hotel - A building in which lodging or boarding and lodging are provided and offered to the public for compensation and which is open to transient guests in contradistinction to a boarding house herein defined.

Junk Yard, Salvage Yard - Any land, structure, building, or combination of the same on which waste or discarded, used property other than organic matter is accumulated and/or stored and is or may be salvaged for re-use or resale. This definition includes but is not limited to is the accumulation or storage of unlicensed or inoperable motor vehicles, farm machinery or equipment, scrap metals, paper, rags, tires, and bottles.

Lot - A parcel of land occupied or suitable for occupancy by one principal building or use, together with its accessory building(s) and including the open space required under the regulations of this' Ordinance. A lot may be a single lot so recorded in the office of the County Recorder or it may include parts of, or a combination of such lots when adjacent to one another and used as one parcel. Open spaces necessary for compliance with these regulations for one building or use shall not be again counted as open spaces for any other building or use.

Lot, Corner - A lot located at the intersection of two or more streets or roads,

Lot, Interior - A lot with frontage on only one street.

Lot, Through - A lot having frontage on two non-intersecting streets or roads, as distinguished from a corner lot.

Lot Area - The area of any lot shall be determined exclusive of street, highway, alley, road:' or other rights-of-way.

Lot Coverage - The ratio of the building area of all buildings on a lot to the lot area, expressed as a percentage.

Lot Depth - The mean horizontal distance between the front and rear lot lines.

Lot Frontage - The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to a street shall be construed frontage.

Lot Line

- a. Front Lot Line - The line separating the lot from the street for an interior lot or the line separating the lot from either street for corner or through lots.
- b. Rear Lot Line - The boundary of a lot which is the most distant from and is, or most nearly is, parallel to the front lot line. On a corner lot, the rear lot line shall be opposite the lot line along which the principal building faces.
- c. Side Lot Line - Any boundary of a lot which is not a front lot line or a rear lot line.

Lot Width - The width of the largest rectangle which can be inscribed within the lot lines.

Manufactured Home - A unit as defined by IC 36-7-4, Sec. 1106. (a) (1). . Specifically, "Manufactured home" means a dwelling unit, designed and built in a factory; which bears a seal certifying that it was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law of 1974 (42 D.S.C. 5401 et seq.)." The term "manufactured home" is defined to include Type I Manufactured Homes, Mobile Homes and Modular Homes as herein defined.

Manufactured Home, Type I - A manufactured or modular home as previously defined, constructed after January 1, 1981, which shall

- 1. exceed twenty-three (23) feet in width and 950 square feet of occupied space in a double-section or larger multi-section unit (a 24' x 40' unit is considered minimum).
- 2. be placed on a permanent foundation in conformance with the regulations in the One- and Two-Family Dwelling Code.
- 3. utilize a permanent perimeter enclosure in accordance with the One-and Two Family Dwelling Code.
- 4. be anchored to the ground in accordance with the One- and Two-Family Dwelling Code and to the manufacturers' specifications.
- 5. have wheels, axles, and hitch mechanisms removed.
- 6. have utilities connected in accordance to the One- and Two-Family Dwelling Code and manufacturer's specifications.
- 7. have siding material of a type customarily used on site-constructed residences.
- 8. have roofing material of a type customarily used on site-constructed residences

Manufactured Home Community - A parcel of land which is subdivided and contains individual lots which are leased or otherwise contracted for on which two (2) or more manufactured homes are harbored on temporary supports for the purpose of being occupied as principal residences.

Manufactured Home Subdivision - A parcel of land platted for subdivision according to all requirements of the Subdivision Control Ordinance, designed or intended for lots to be conveyed

by deed to individual owners for residential occupancy primarily by manufactured homes placed on a permanent foundation.

Mobile Home - A factory-built housing unit designed to be used as a year-round residential dwelling constructed after June 18, 1976, bearing the Indiana State Mobile Label certifying that the unit was designed, reviewed, constructed, and inspected to the Indiana mobile structures code.

Modular Home - Factory-built housing certified as meeting the state building code as applicable to modular or industrialized housing. The housing must have, located on the electric service panel door, the State Modular Label, indicating that the unit was designed, reviewed, constructed and inspected to the Indiana One- and Two-Family Dwelling Code for residential units or the Indiana Building Code for commercial units.

Nonconforming Use - A building, structure, or use of land existing at the time of enactment of this Ordinance, and which does not conform to the regulations of the district in which it is situated.

Open Air Sales Lot - A parcel of land which is used for the sale of goods displayed outside of enclosed buildings. These uses include but are not limited to sales of automobiles, boats, mobile homes, or recreational vehicles; lumber yards; nurseries; flea markets; and other similar uses. This definition does not include such sales areas which are incidental or customarily accessory to other, uses. These exceptions include but are not limited to the outside display of sample items of merchandise sold inside a retail building (such as a hardware store), seasonal outdoor sales of plants garden supplies in conjunction with a retail business such as a garden supply, discount or department store.

Open Space Uses - uses which involve little or no construction of buildings, or paving. , Examples include parks, golf courses, sanctuaries for birds or wildlife, campgrounds, and uses of similar inte!l sity.

Parcel – A lot, or contiguous group of lots in single ownership or under single control, considered as a unit for purposes of development.

Personal Convenience Services - activities such as barber or beauty shops, dry cleaning, dressmaking or tailoring, shoe repair, home appliance repair, and similar uses.

Professional and Business Services - activities such as banking and associated services, financial institutions, real estate, management, tax consultant, engineer, accountant, photographer, lawyer, and medical services.

Recreational Vehicle - A temporary dwelling for travel, recreation and vacation use including, but not limited to:

1. Travel Trailer - A vehicle, identified by the manufacturer as a travel trailer, built on a chassis eight (8) feet or less in width, and thirty (30) feet or less in length, and designed to move on the highway.
2. Pick-up Coach - A structure designed to be mounted on a truck chassis or cut-down car.
3. Motor Home - A self-propelled vehicle with a dwelling constructed as an integral part of the vehicle, or so altered.
4. Camping Trailer - A canvas, folding structure, built on a chassis with wheels and designed to move on the highway.

Recreational Vehicle Park - Any lot, parcel, or tract of land approved for the use and occupancy of two or more recreational vehicles.

Recreational Vehicle Site - An area of land within a Recreational Vehicle Park designed and approved for the placement of one recreational vehicle.

Research Uses -laboratories, product research, or similar uses.

Sanitary Landfill - A lot or any portion of a lot, which is used for the disposal of refuse, utilizing the method of confining the refuse to the smallest practical area, reducing it to, the smallest practical volume, and covering it with a layer of earth daily, or at more frequent intervals

Sign - See Ordinance No.7. Page VI-4-1-1-1A

Site Plan - A plan meeting the requirements of this Ordinance, showing existing and proposed uses, structures, and other features of a parcel of land.

Special Exception - A specific use or structure which because of its unusual nature is allowed in a district as specified in this Ordinance only if granted by the Board of Zoning Appeals.

Street, Road - A general term denoting a public thoroughfare for vehicular traffic, including the entire area within the right-of-way.

Structure - Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground.

Transfer Station - A parcel of land and its associated structures where solid wastes are brought for processing (shredding, compacting, or composting), recycling or reloading for transfer to a sanitary landfill.

Transient - A person occupying a room in a hotel, motel, or bed and breakfast for a period of one to seven days, as opposed to a resident.

Transportation Uses - uses directly related to any mode of vehicular or air transportation, including truck terminals, airports, railway or bus stations, and similar uses.

Use Variance - A variance, granted by the Board, to permit a use in a District in which it is otherwise prohibited. In granting a use variance, the Board may establish appropriate conditions and safeguards. A use variance authorized by the Board, with due process of law, becomes a lawful Nonconforming Use.

Variance - A device which grants a property owner relief from certain provisions of this Ordinance when, because of the particular physical surroundings, shape, or topographical conditions of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to make more money.

Variance from the Development Standards - A device which grants a property owner relief from the Ordinance standards relating to height, bulk, area, and similar provisions, but not including a use variance.

Vehicle Sales Lot - An open space devoted to the display for sales purposes of new or used automobiles, trucks or motorcycles which are capable of self-propulsion and are equipped for safe highway travel and provided, further, that any repairing, repainting, or other reconditioning of such vehicles shall take place within a building.

Yard - An open space, other than a court, on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and the building including any roof overhang shall be used.

Yard, Front - A yard extending between the front line of the building and the front lot line. For the purposes of this Ordinance, a lot which has frontage on more than one street is considered to have more than one front yard, or one front yard on each street on which the lot has frontage.

Yard, Side - A yard between the principal building and the side lot line, extending from the front yard line to the rear yard line.

SECTION 3.00.

ESTABLISHMENT OF DISTRICTS

The following zoning districts are hereby established for the geographical areas within the jurisdiction of the Newton County Plan Commission:

A	Agricultural District
R-1	Single Family Residential District
R-1A	Single Family Residential with Livestock Privilege

amended 12/16/96 see VI-1-1-1-6A

amended 12/17/01 see VI-1-1-1-8A

R-2	Multiple Family Residential District
RMH	Residential Manufactured Home District
RMHA	Residential Manufactured Home with Livestock Privilege
MXD	Mixed Use Development District
B-1	Local Business District
B-2	General Business District
I-I	Light Industrial District
I-2	Industrial District PUD
FP	Flood Plain
RDD	Rural Development District

SECTION 3.10. ZONE MAPS (amended 12/17 /01 V I -1-1-1-8B)

The locations of the Districts are indicated on the Zone Maps accompanying this Ordinance and such maps are hereby declared to be a part thereof. At least one copy of such maps shall be kept on file in the Office of the County Auditor and one copy in the Office of the Building Commissioner for public inspection.

SECTION 4.00. USE DISTRICT REGULATIONS

After the passage of this Ordinance; no building, , structure or .land' shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed; moved, or structurally altered except in conformity with: all of the regulations herein specified for the District in which it is located.

SECTION 4.01. ZONE BOUNDARIES

For purposes of interpretation of the zoning map, the following rules shall apply:

1. Boundaries shown on the zoning map as approximately following the center lines of a highway, street, alley, railroad, water course, or body of water shall be construed to actually follow the center lines thereof.
2. Where the street layout on the ground varies from the street layout as shown on the official zoning map, the Plan Commission may apply the designations shown on the mapped streets in such a way as to carry out the intent and purposes of this Ordinance.
3. Boundaries indicated on the zoning map as approximately following shore lines shall be construed to actually follow such shore lines, and in the event of change in the shore line, such boundaries shall be construed as moving with the actual shore line.
4. Boundaries indicated on the zoning map as approximately following platted lot lines shall be construed as following such lot lines.

5. Boundaries indicated on the zoning map as approximately following jurisdictional lines or section lines shall be construed as actually following such limits or lines.
6. In any other case where the location of the zoning line is unclear, the Plan Commission shall make a determination as to the location of such zoning line.

SECTION 4.02. NONCONFORMING BUILDINGS AND USES

The lawful use of a building or premises existing at the time of passage of this Ordinance may be continued although such use does not conform to all provisions of this Ordinance. The burden of proof that a use or structure qualifies as a nonconforming use shall rest with the owner or user of such property. In the absence of such proof, the Plan Commission may consider such use to be unlawful. Nonconforming uses are subject to the following regulations:

(1) NONCONFORMING BUILDINGS OR STRUCTURES

- (A) A nonconforming building or structure may be maintained, except as otherwise provided in this Section.
- (B) Repairs and alterations may be made to a nonconforming building or structure, provided that no enlargement to the building or structure shall be made.
- (C) Whenever a nonconforming building or structure has been damaged or destroyed by any means to the extent of 60% or more of the replacement value, the building or structure may not be reconstructed unless the building or-structure is made to conform to all regulations of the District in which it is located.

(2) NONCONFORMING USE OF BUILDINGS, STRUCTURES OR LAND

- (A) A nonconforming use lawfully existing at the time of passage of this Ordinance may be continued.
- (B) A nonconforming use of a building, structure, or land shall not be expanded or extended into any other conforming portion of such building, structure, or land.
- (C) In the event that a nonconforming use is discontinued for a period of thirty days or more, the use of the building, structure, or land shall hereafter conform to the uses permitted in the District in which it is located.

SECTION 4.10. A - AGRICULTURE DISTRICT

(1) USES PERMITTED

Dwelling, Single-Family
Manufactured Home, Type I
Farm
Agricultural buildings
Home Occupations complying with Section 6.70
Roadside stands for the retail sale of produce raised on the premises
Wholesale greenhouses and plant nurseries
Public and parochial schools

Public parks, playgrounds, recreation areas

Churches and similar places of worship

Such Special Exception Uses as may hereafter be permitted in this District under the provisions of Section 5.0?

(2) LOT SIZE

The provisions of Section 6.10 shall apply.

(3) SETBACK AND YARD LINES

The provisions of Section 6.20 shall apply

(4) BUILDING AREA

The provisions of Section 6.30 shall apply.

(5) LOT COVERAGE

No requirement.

(6) BUILDING HEIGHT

The provisions of Section 6.50 shall apply

(7) PARKING

The provisions of Section 6.60 shall apply

SECTION 4.20. R-1 - SINGLE-FAMILY RESIDENTIAL DISTRICT

(1) USES PERMITTED

Dwelling, Single-Family

Manufactured Home, Type I

Accessory Building

Churches and similar places of worship

Home Occupations complying with Section 6.70

Outdoor advertising as permitted by Ordinance 7

Public and Parochial Schools

Parks, playgrounds, recreation areas

Roadside stands for the retail sale of produce raised on the premises

Such Special Exception Uses as may hereafter be permitted in this District under the provisions of Section 5.00.

Temporary structures incidental to construction work, only for the period of such work.

(2) LOT SIZE

The provisions of Section 6.10 shall apply.

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(3) **SETBACK AND YARD LINES**

The provisions of Section 6.20 shall apply.

(4) **BUILDING AREA**

The provisions of Section 6.30 shall apply.

(5) **LOT COVERAGE**

The provisions of Section 6.40 shall apply.

(6) **BUILDING HEIGHT**

The provisions of Section 6.50 shall apply.

(7) **PARKING**

The provisions of Section 6.60 shall apply.

**SECTION 4.21. R-IA- SINGLE FAMILY RESIDENTIAL WITH LIVESTOCK
PRIVILEGE .**

(1) **USES PERMITTED**

All uses permitted in the R-I District

Privilege to keep livestock subject to the following:

Hogs shall not be permitted.

The minimum lot size shall be one acre.

The width of the front yard in this district shall be not less than 100 ft.

Livestock and poultry shall not be permitted in the front yard.

A building permit will be required for the construction of each accessory building in this district.

The construction shall comply with the Indiana building and electric codes.

All livestock or poultry shall be confined to the owners' property.

A lawful fence shall be erected so as to confine the livestock or poultry to the owners' property.

For an existing R-I subdivision, the land use may be changed to R-IA only by a petition signed by all owners of record of property in the subdivision.

The following shall be the maximum number of livestock or poultry permitted per acre:

A total of 36 rabbits and/or poultry, or

One horse or one head of cattle, or

Three sheep or goats.

SECTION 4.22. R-2 - MULTIPLE FAMILY RESIDENTIAL DISTRICT**(1) USES PERMITTED**

All uses permitted in the R-1 Single-Family Residential District

Dwelling, Two-Family

Dwelling, Multiple-Family

Apartments, row housing, townhouses, and condominiums

The renting of not to exceed two sleeping rooms with a total occupancy of not to exceed four (4) persons for whom board may be furnished but with the prohibition of separate culinary accommodations for such tenants.

Such Special Exception Uses as may hereafter be permitted in this District under the provisions of Section 5.00.

(2) LOT SIZE

The provisions of Section 6.10 shall apply.

(3) SETBACK AND YARD LINES

The provisions of Section 6.20 shall apply.

(4) BUILDING AREA

The provisions of Section 6.30 shall apply.

(5) LOT COVERAGE

The provisions of Section 6.40 shall apply.

(6) BUILDING HEIGHT

The provisions of Section 6.50 shall apply.

(7) PARKING

The provisions of Section 6.60 shall apply.

SECTION 4.30. RMH - RESIDENTIAL MANUFACTURED HOME DISTRICT**(1) SPECIAL REQUIREMENTS**

No area of less than twenty (20) acres shall be zoned Residential Manufactured Home District.

(2) USES PERMITTED

Dwelling, Single-Family

Manufactured, Modular, or Mobile Home as previously defined herein subject to the requirements of Section 7.00 of this Ordinance.

Manufactured Home Residential Subdivision of at least 10 lots, properly planned, approved and recorded in accordance with the terms of Ordinance # 90-7, the Newton County Subdivision Control Ordinance.

Manufactured Home community, subject to the requirements to Section 7.00 and 7.10 of this Ordinance

Such Special Exception Uses as may hereafter be permitted in this District under the provisions of Section 5.00.

(3) LOT SIZE

The provisions of Section 6.10 shall apply.

(4) SETBACK AND YARD LINES

The provisions of Section 6.20 shall apply.

(5) BUILDING AREA

The provisions of Section 6.30 shall apply.

(6) LOT COVERAGE

The provisions of Section 6.40 shall apply.

(7) BUILDING HEIGHT

The provisions of Section 6.50 shall apply.

SECTION 4.31. RMHA - RESIDENTIAL MANUFACTURED HOME DISTRICT WITH LIVESTOCK PRIVILEGE

(1) USES PERMITTED

All uses permitted in the RMH District

Privilege to keep livestock subject to all conditions applying to the R-1A District

SECTION 4.40 MIXED USE DEVELOPMENT DISTRICT (MXD)

This district is intended to provide for a mixture of dense, small-scale urban uses in the , community core. This district includes the central business area, as well as a mixture of uses in the older, more densely developed portions of Newton County. Because of the need for compatibility in this district, all uses marked with an asterisk (*) require that there be a development plan approved by the Plan Commission.

(1) Uses Permitted

Single-family Dwelling

Two-Family Dwelling

Multifamily Dwelling

Church

Health Care Use
 Home Occupations complying with Section 6.70
 Retail Sales Establishment
 Personal Convenience Services
 Professional and Business Services
 Restaurant
 Day Care Center
 Bed and Breakfast Inn
 Hotel, Motel, Apartment Hotel
 *Open Space Uses
 *Transportation Uses
 *Manufacturing Uses
 *Research Uses
 *Educational Uses
 *Essential Services

Such special exception uses as may hereafter be permitted in this District under the provisions of Section 5.00. Uses accessory (as defined in Section 2.00) to these uses are permitted on the same lot with the principal uses, including accessory apartments.

(2) Minimum Standards

- (A) The minimum lot area is 5,000 square feet, and the minimum frontage on a public street is 40 feet.
- (B) For one- or two-family dwellings, the minimum front setback shall be 10 feet. No front setback is required for other uses.
- (C) Side and rear yard setbacks for any residential structure shall be at least 5 feet. For other structures, no setback is required.
- (D) Off-street parking shall be provided in accordance with Section 6.60.
- (E) Minimum standards for all uses on an approved development plan shall be as shown on the plan, which shall be prepared in accordance with Section 8.00.

SECTION 4.50. B-1 - LOCAL BUSINESS DISTRICT

The Local Business District is designed to meet the day-to-day convenience shopping and service needs of persons living in nearby residential areas. Uses allowed in this district will, in general, be a less dense use than those allowed in the General Business District.

VI-1-1-1-1R

(1) **USES PERMITTED**

Automobile service stations, but not including major repair or body work
Day care centers
General retail outlets for consumer goods and services
Groceries, supermarkets and restaurants
Open space uses
Outdoor advertising as permitted by Ordinance #7
Professional and business services
Residence, by owner or operator within place of business
Self-service laundries
Theaters, other than outdoor theaters

(2) **LOT SIZE**

The provisions of Section 6.10 shall apply.

(3) **SETBACK AND YARD LINES**

The provisions of Section 6.20 shall apply.

(4) **BUILDING AREA**

The provisions of Section 6.30 shall apply.

(5) **LOT COVERAGE**

No restrictions with the exception of setback.

(6) **BUILDING HEIGHT**

The provisions of Section 6.50 shall apply.

(7) **PARKING**

The provisions of Section 6.60 shall apply

SECTION 4.51.

B-2 - GENERAL BUSINESS DISTRICT

(1) **USES PERMITTED**

All uses permitted in the B-1 District
Bed and breakfast inn
Dry cleaning establishments
Lumber and building material sales yards
Transportation uses
Hotels and motels
Shopping centers
Vehicle parking lots for temporary storage
Vehicle show rooms and sales lots

General business uses not specifically stated or implied elsewhere in this section Such Special Exception Uses as may hereafter be permitted in this District under the provisions of Section 5.00

- (2) **LOT SIZE**
The provisions of Section 6.10 shall apply.
- (3) **SETBACK AND YARD LINES**
The provisions of Section 6.20 shall apply.
- (4) **BUILDING AREA**
The provisions of Section 6.30 shall apply.
- (5) **LOT COVERAGE**
No restrictions with the exception of setback.
- (6) **BUILDING HEIGHT**
The provisions of Section 6.50 shall apply.
- (7) **PARKING**
The provisions of Section 6.60 shall apply;

SECTION 4.60. I-I - LIGHT INDUSTRIAL DISTRICT

Manufacturing, fabricating, processing, extraction, repairing, dismantling, or storage of equipment, raw materials, manufactured products conducted entirely within enclosed buildings. .Where adjacent to Residential or Business Districts, screening of storage, parking and loading areas is required.

- (1) **USES PERMITTED**
Enclosed industrial uses including processing, refining, repairing of goods, materials or products.
Engineering or research laboratories
Vocational or industrial training facilities
Data processing or analysis.
Enclosed warehousing, packaging, storage, or distribution facilities
General offices associated with industrial use
Office complexes
Printing or publishing
Utility installations or facilities
Such Special Exception Uses as may hereafter be permitted in this District under the provisions of Section 5.00.

(2) LOT SIZE

The provisions of Section 6.10 shall apply.

(3) SETBACK AND YARD LINES

The provisions of Section 6.20 shall apply.

(4) BUILDING AREA

The provisions of Section 6.30 shall apply.

(5) LOT COVERAGE No restrictions.

(6) BUILDING HEIGHT

The provisions of Section 6.50 shall apply.

(7) PARKING

The provisions of Section 6.60 shall apply.

SECTION 4.61. 1-2 - HEAVY INDUSTRIAL DISTRICT

(1) USES PERMITTED

All uses permitted in the B-2 General Business District

All uses permitted in the 1-1 Light Industrial District

Mass transportation facilities including rail yards, layover areas for transit vehicles

All other uses of a manufacturing or fabricating nature except those uses hereinafter listed " ", in Section 5.00 of this Ordinance, which may be permitted only by Special Exception.

(2) LOT SIZE

The provisions of Section 6.10 shall apply.

(3) SETBACK AND YARD LINES

The provisions of Section 6.20 shall apply.

(4) BUILDING AREA

The provisions of Section 6.30 shall apply.

(5) LOT COVERAGE No restrictions.

(6) BUILDING HEIGHT

The provisions of Section 6.50 shall apply.

(7) PARKING

The provisions of Section 6.60 shall apply.

SECTION PUD - PLANNED UNIT DEVELOPMENT DISTRICT

A Planned Unit Development District (PUD) is hereby established to guide and regulate the future development of lands located in the unincorporated areas of Newton County. This district is intended to promote flexibility in land development.

Whenever a change of Use District is approved under the provisions of this Section, the new district shall be known as R-1, PUD; R-2, PUD; RMH, PUD; B, PUD, as the use may be and shall be so designated as such on the Zone Map.

SECTION 4.71. PLANNED UNIT DEVELOPMENT REGULATIONS

(1) No permit shall be issued for the construction, erection or moving in of any building or structure, nor the use of any land in the PUD District until a Planned Unit Development plan has been approved by the Commission.

(2) PUD Plan: Method of Adoption

(A) The plan for a PUD District may be adopted simultaneously with or by separate proceeding after the establishment of the District. Action for adoption of a PUD Plan shall be commenced by submission of the PUD plan drawn on a reproducible material to the Building Commissioner. The PUD Plan shall include a plot plan of the proposed development drawn to scale showing:

1. Boundaries of the property, topography; and a proposed grading plan;
2. Width, location and names of surrounding streets;
3. Location, dimensions and uses of all existing buildings and structures on adjacent property with one hundred (100) feet of the boundary line of the subject property.
4. Location, dimensions, ground floor area and the uses of all existing and proposed buildings and structures on the subject property;
5. Proposed landscaping;
6. Parking area, including the size and number of spaces and the internal circulation pattern;
7. Signs, including location, size and height;
8. Pedestrian, vehicular and service ingress and egress;
9. Location, height and material of walls and fences; and
10. Other specific uses of the property.

**amended.
11/18/96
see
VI-1-1-1-5A**

In addition, to the following statistical information shall be provided:

1. Acreage or square footage of the property;
2. Height, ground floor area and total floor area of each building;
3. Number of dwelling units in each building; and
4. Lot area coverage expressed as a percentage of the property.

- (B) Upon receipt of a PUD Plan the Building Commissioner will schedule the Plan for consideration by the Commission within forty-five (45) days of the receipt of the plan. At a leg scheduled meeting, the Commission shall consider said Plan and approve, conditionally approve or disapprove the plan. The PUD Plan as approved or conditionally approved shall be retained as a permanent record of the Commission. A conditional approval may specify the limits within which the dimensions shown on the PUD Plan may vary.
- (C) The Commission's action shall be final
- (D) Revised PUD Plans may be submitted and processed in the same manner as the original PUD Plan. When approved, such revised plan shall automatically supersede any previously approved plan.

SECTION 4.80. FP - FLOOD PLAIN DISTRICT

All lands within the jurisdiction of the Newton County Plan Commission which are shown on the Flood Boundary Maps and/or the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency for the National Flood Insurance Program as being in a flood plain are hereby declared to be located in the FP District and are subject to the provisions of Ordinance #93-8 as amended.

SECTION 4.90 RDD, RURAL DEVELOPMENT DISTRICT

This district is intended to accommodate a variety of uses which may be proposed in Newton County. This district is intended to provide for uses not otherwise permitted under the terms of this Ordinance. An applicant may request this district designation and may propose in this district any use

- (1) Any application for the Rural Development District shall contain all applicable items listed below:
- Proposed name of the development
 - Name, address and telephone number of the developer
 - Name, address and telephone number of the owner
 - Description of the location of the property
 - Map including date; scale; north arrow; approximate location, size (maximum height and floor area), capacity, and use of all buildings and structures existing or to be placed in the development
 - The use or uses proposed for the property
 - Nature and intensity of the operations involved in or conducted in connection with the development

Land use intensity factors (i.e., dwelling units/acre, floor area ratio, lot coverage)

Any other information the Plan Commission deems necessary for an adequate evaluation of the request.

- (2) Development plans submitted under this section require primary and secondary approval by the Plan Commission.
- (3) After receipt of an application for primary approval of a development plan, the Plan Commission shall consider it at a public meeting. At this meeting, the Commission shall review the proposal and make a determination as to what information and studies are necessary for the county to make a decision regarding the consistency of the proposal to the Newton County Comprehensive Plan. The Commission shall notify the applicant in writing of the date of the meeting. This meeting may be continued as the Commission deems necessary. Once the Commission determines what information is necessary to evaluate the proposal, it shall investigate the sources of information and the costs of providing needed studies.

The Commission shall notify the applicant as to the costs of these studies and the time required to produce them. If the applicant decides to proceed with the proposal, the applicant shall deposit with the county funds sufficient to carry out all needed studies. The Plan Commission shall arrange for the studies to be completed. Any funds remaining on deposit after completion of the studies shall be returned to the applicant. If the studies exceed the county's cost estimates, the county shall be responsible for paying these costs.

The Commission shall then hold a public hearing on the proposed project and shall give notice by publication in accordance with IC 5-3-1, and provide for due notice to interested parties at least 10 days before the date set for the hearing. The Plan Commission shall, by rule, determine who are interested parties, how notice is to be given to them, and who is required to give that notice. After the hearing, the Commission shall make a recommendation to the County Commissioners as to whether the property should be rezoned to Rural Development District for the proposed project. In making its recommendation, the Commission shall consider the following:

Adequacy of the transportation network to accommodate the proposed use.

Adequacy of the infrastructure to accommodate the proposed use, including water supply, sanitary sewers, storm drainage, electricity, and gas.

Adequacy of other public services, including police and fire protection, waste disposal and other services.

Environmental impacts of the proposed use, including air quality, water quality, noise, and odors. .

Visual impacts of the proposed use.

Economic impacts of the proposed use, including the growth potential, company stability, number of jobs, salary ranges, available local labor force, and expected effects on existing businesses and future business development.

Costs and benefits to the community. These can include a wide range of considerations including the degree to which any adverse impacts of the use can be mitigated, anticipated tax revenues, and amenities and improvements to the community.

General compatibility of the proposed use with its surroundings.

Consistency of the proposal with the county's adopted goals and policies.

- (4) If the County Commissioners rezone the property, the Developer must submit a development plan for secondary approval. The Plan Commission may approve or deny an application for secondary approval of a development plan. In approving a development plan, the Commission may impose such conditions as it deems necessary to carry out the intent and-purpose of this Ordinance. If the Commission denies an application, it shall provide the applicant with the written reasons for the rejection. Any application for secondary approval shall contain all of the following items as applicable to the proposal:

Site layout of the development, including the location, size, arrangement, and capacity of the area to be used for vehicular access (including driveway widths, designs, and curb radii), parking spaces, loading and unloading

Names of public ways giving access to the development, and location, width, and names of platted public ways, railroads, parks, utility easements, and other public open spaces

Layout, names, and widths of proposed public ways; widths of alleys, lanes, walkways platted public ways, railroads, parks, utility easements, and other public open spaces paths, and easements

Description of the use of adjacent property and drawing showing the relationship of surrounding properties to the development plan area

Location, size, and arrangement of areas to be devoted to planting lawns, trees, and other site screening activities; including a description of the types, numbers, and sizes of landscape materials to be used

Number, types, sizes, locations, heights and designs of any proposed signs

Storm drainage plan, including topographic features, appropriate contour intervals, directions of stormwater runoff

Sewage disposal plan

Water supply system

Locations and sources of all other utilities, with appropriate easements (i.e., electricity, gas, telephone)

Layout of proposed lots with dimensions

- (5) In reviewing a development plan, the Plan Commission shall give consideration to any of the following factors which are relevant to the application:
- General compatibility of the proposed development and uses therein with adjacent and nearby properties

Safe and convenient ingress and egress to the property and the proposed location of structures in relation to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency.

Off-street parking and loading areas in relation to surrounding properties

Adequacy and availability of utilities

Adequacy and suitability of landscaping, screening, and buffering

Appearance and compatibility of any proposed signs

Suitability and compatibility of lot sizes and layouts

Appearance, size, height, intensity, and compatibility of buildings and structures in relation to the surrounding area

Any other factors which the Plan Commission deems applicable to the specific proposal

- (6) A development plan maybe approved by the Plan Commission only if the Commission makes a determination that all of the following criteria are met:

The use will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the surrounding area, or to the community as a whole

The public convenience and welfare will be substantially served

That the proposal is consistent with the goals and policies established in the Comprehensive Plan of Newton County.

- (7) No improvement location permit or building permit shall be issued and no site development or construction may commence in relation to a development plan until such plan has been recorded in the office of the Newton County Recorder.:

- (8) No change shall be made on any approved development plan without permission of the Plan Commission. The Plan Commission may permit minor changes without notice or hearing. Any change which the Commission deems substantial shall require the same procedure as the initial approval.

- (9) Any development plan which has not been substantially put into effect five years after the date of secondary approval shall be null and void, unless an extension is authorized by the Plan Commission.

amended 12/16/96, see VI -1-1-1-6A

SECTION 5.00. SPECIAL EXCEPTIONS

12/17/01 see 4. 90a VI-1-1-1-8B

Within the various Districts established by this Ordinance, certain uses may be permitted and buildings or premises may be used and buildings may be erected which are arranged, intended or designated for the following uses, but only after the Board of Zoning Appeals, as hereinafter created by this Ordinance, shall determine, through public hearing' after proper notice, that such uses will substantially serve the public convenience and welfare and will not be injurious to the appropriate use of neighboring property.

In permitting such Special Exception Uses, the Board may establish appropriate conditions and safeguards as part of such permission. Under such conditions the Board may grant the following uses only in the Districts so indicated.

- (1) In all Districts:
 - Cemetery or crematory -
 - Manufactured or Mobile Homes for temporary occupancy as provided for in Section 7.00.
- (2) In the Agriculture District
 - Telephone exchange, electric substation or similar public utility.
 - Confined feeding operation, subject to the requirements of Section 5.20.
 - Airports **Amended**
 - Bed and Breakfast Inns **3/20/95**
 - Commercial grain storage, grain elevators, feed mills **VI-1-1-2-1A**
 - Fertilizer, farm chemical and farm supply dealers **9/20/99**
 - Itinerant work camps **VI-1-1-2-1C**
 - Manufactured home for residential occupancy of a full-time farm worker on the farm where employed
 - Public Camp Grounds
 - Recreational Vehicle Park
- (3) In A, B, and I Districts:
 - Manufactured or Mobile Homes for non-residential occupancy
 - Outdoor theaters.
 - Open-air sales lots.
 - Private social or fraternal lodges.
 - Manufactured home for residential occupancy for the protection and security of the business. Applications shall be made by the owner of the property where the home is to be placed.
 - Penal institutions, sanitariums, or mental health facilities
- (4) In the A and I Districts:
 - Disposal plants or transfer stations **Amended**
 - Soil excavation for the purpose of removal from the premises **9/5/95**
 - Junk yard, salvage yard, or auto wrecking yards. **VI-1-1-3-1A**
 - Stockyards and slaughter houses.
 - Communication towers
- (5) In the 1-2 District:
 - Manufacturing, industrial, or storage operations which are noxious or offensive by reason of emission of odor, dust, smoke, gas, noise or vibration beyond the boundaries of the property, including but not limited to:
 - 1. Petroleum refining
 - 2. Cement, lime, gypsum, or plaster of paris manufacture.
 - 3. Manufacturing of pesticides, corrosives, or other hazardous or noxious chemicals.
 - 4. Smelting of copper, tin, zinc or iron ore.

5. Manufacture or storage of explosives.
6. Distillation of bones and glue manufacturing.
7. Reduction of dead animals or offal.
8. Sanitary landfill

- (6) In the A, R-I, R-IA, and R-2 Districts:
Bed and Breakfast Homestay complying with Section 6.70.
- (7) In the MXD District:
Automobile Repair Shop
Automobile Service Station
Commercial Garage

SECTION 5.10 BOARD OF ZONING APPEALS CONSIDERATIONS

- (1) The Board of Zoning Appeals shall hear and decide only such special exceptions as the Board is specifically authorized to permit by this Ordinance. The Board shall decide such questions as are involved in determining whether special exceptions should be granted and shall apply such conditions and safeguards as are necessary and appropriate under this Ordinance, or to deny conditional uses when incompatible or inconsistent with the purpose and intent of this Ordinance. Before any special exception shall be granted, the Board shall make written findings certifying compliance with any specific regulations governing individual special exceptions and that satisfactory provision and arrangement has been made concerning the following, where applicable:
 - (A) There will be adequate ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency.
 - (B) There will be conveniently located adequate off-street parking and loading areas. Special consideration shall be given to the location and use of these areas in relation to surrounding properties and reasonable assurance shall be provided that, the use of these areas will not create noise, glare, or other adverse effects on adjoining and nearby properties.
 - (C) Adequate refuse disposal and service areas will be provided. Special consideration shall be given to the location and use of these areas in relation to surrounding properties.
 - (D) Adequate utilities will be available to serve the use.
 - (E) Adequate screening and buffering will be provided to mitigate any adverse effects of the use on surrounding properties.
 - (F) Any signs or lighting permitted in conjunction with the use shall be appropriate to the location and in harmony with the general character of the properties in the area. Special consideration shall be given to the size, design, and location of these in relation to surrounding properties and reasonable assurance shall be provided

that the use of these areas will not create noise, glare, or other adverse effects on adjoining and nearby properties.

(G) Setback distances provide adequate open space and separation iTom adjoining land uses.

- (2) Before granting any special exception, the Board shall make a written finding that such use will be in general compatibility with adjoining properties and will be consistent with the spirit and intent of this Ordinance.

amended 9/16/96 see VI-1-1-1-4A

SECTION 5.20 CONFINED FEEDING OPERATIONS

- (1) The Board of Zoning Appeals may grant a -special exception for a confined feeding operation in a zoning district in which such special exception is permitted, subject to the provisions of this section.
- (2) An application for the special exception shall contain the following:
- Name, address, and telephone number of the owner
 - Name, address, and telephone number of the operator
 - Description of the location of the property'
 - Map including date; scale; north arrow; approximate location, size (maximum height and floor area), capacity, and use of all buildings and structures (including pens) proposed to be used for the operation
 - Plan for waste treatment and disposal and copies of any required approvals for such systems .
 - Any other information the Board may require in order to decide whether to grant the special exception, including but not limited to topography, soil types, drainage courses, and identification of the receiving stream.
- (3) After receiving the application, the Board shall give notice and hold a public hearing in accordance with IC 36-7-4-900. The Board shall determine by rule who are interested parties and how notice is to be given to them.
- (4) In permitting a confined feeding special exception, the Board may establish appropriate conditions and safeguards. The Board is empowered to appoint a committee of three to five persons, knowledgeable in management of confined feeding operations, to investigate and recommend approval of a confined feeding operation or to evaluate complaints. A review may be held and the approval rescinded if, after a public hearing, the Board finds that the confined feeding operation is causing a violation of IC 13_1-3 as amended or any regulation of Newton County or any condition of approval by the Board.
- (5) Any person or persons believing that such permitted confined feeding operation in Newton County is being operated in violation of any law of the State of Indiana, rule or regulation

as to confined feeding, or that the operation is endangering public health or safety, or is contrary to the public welfare, or is injurious to the appropriate use of neighboring property, or in violation of the Ordinances of Newton County, upon payment of a filing fee of one hundred dollars (\$100.00) to the Auditor of Newton County, may file a verified complaint with the secretary of the Newton County Plan Commission setting forth a designation or description of the lands involved, the lands in which complainants have an interest, the above matters of which they have complaint, together with such supplementary maps, schedules and other information as they may desire. Upon receipt of a verified complaint, the Board shall hold a public hearing. Public notice setting forth the time and place shall be given at least ten (10) days before the date of the hearing in a newspaper of general circulation in the County. The Board shall determine by rule who are interested parties and how notice is to be given to them.

- (6) Expansion of approved confined feeding operations or remodeling of buildings in an approved confined feeding operation may be granted in the following manner:
 - (A) The Building Commissioner may issue a building permit for the proposed new or remodeled building, provided that such building is consistent with the plan for the operation approved by the Board.
 - (B) The Building Commissioner may request that the Board hold a public hearing on the proposed additions. Such hearing shall be conducted in the same manner as set forth in this section for a new operation.

(7) SETBACKS

Unless otherwise permitted by the Board, confined feeding operations shall be subject to the following minimum setback requirements:

- (A) No building or shed designed to house or contain livestock may be constructed so as to project beyond a line which is thirty-five (35) feet from any adjacent street or highway line, nor nearer than one hundred (100) feet to the center line of any adjacent state or federal highway.
- (B) No structure or confined lot designed for the confined feeding of livestock may be constructed within five hundred (500) feet of any existing residence other than that of the operator, nor within one thousand three hundred twenty (1,320) feet of any area zoned residential or any existing church, business, school, recreational area, or public building.
- (C) No family residence other than that of the operator may be constructed within five hundred (500) feet of an existing or approved proposed confined feeding operation.
- (D) No area may be zoned residential nor any church, business, school, recreational area, or public building constructed within one thousand three hundred twenty (1,320) feet of an existing or approved proposed confined feeding operation.

VI-1-1-1AD

These setbacks may be reduced by the Board only upon a finding that the strict application of these requirements would constitute an unnecessary hardship if applied to the property and that the varying of these setbacks will not adversely affect neighboring property. These setbacks may be increased by the Board upon a finding that these requirements are insufficient to protect neighboring property from adverse effects. In reducing or increasing the setback requirements, the Board may require recorded written commitments regarding such setbacks.

(5.30 Added 3/20/95 VI-1-1-2-1A)

SECTION 6.00. PROPERTY DEVELOPMENT STANDARDS

(5.30a Added 9/20/99 VI-1-2-2-1G)

The following development standards shall apply to all land and structures in each applicable District.

SECTION 6.10. LOT SIZE

(5.40 Added 2/20/01 VI-1-1-1-7B)

- (1) A lot on which a dwelling is erected or changed may not be smaller in area in square feet per dwelling unit than that prescribed in Table 1.

(5.40 Added 12/17/01 VI-1-1-1.-88)

TABLE 1
LOT AREA IN SQUARE FEET PER DWELLING UNIT*

TYPE OF DWELLING	A	R-1	R-2	RMH
Single-family with community sewage disposal system	43,560	10,000	8,000	10,000
Single-family with individual sewage disposal system	43,560	43,560	15,000	15,000
Two family with community sewage disposal system			6,000	6,000
Two-family with individual sewage disposal system			8,000	12,000
Multi-family with community sewage disposal system**			3,000	3,000

* A single-family dwelling may be erected on a lot separately owned at the time of passage of this Ordinance.

** This figure applies to the first two dwelling units; add 1,500 square feet for each additional unit.

- (2) For each dwelling unit, there shall be a required lot frontage of not less than sixty (60) feet.

SECTION 6.20. SETBACK AND YARD LINES

(1) FRONT YARDS

(A) In the R-1, R-2, RMH, B and I Districts:

1. There shall be a front yard, between the right-of-way line and the building line of not less than thirty-five (35) feet. In the cases where such property abuts a State or Federal Highway, the building line shall be located at least one hundred (100) feet from the centerline of such highway, but not less than thirty-five (35) feet from the right-of-way line except as hereinafter provided.
2. Where one or more lots are improved, the front depth need not be more than the average depths of the existing front yards of the lots adjoining on either side. An unimproved lot adjoining on either side shall be considered as having a front yard as described above. In any case, the setback need not exceed the above stated limit.

In determining the relation of existing improvements located at a distance of more than one hundred (100) feet, measured center to center of structures, shall be disregarded as to its influence for setback determination and the setback line on that side of the proposed structure shall be considered the same as is required for undeveloped property.

3. When the lot is a corner lot, the depth of the front yard need not be more than the front yard depth of the adjoining lot, if improved, and in no case need it exceed the above described setback.
4. When the lot is a corner lot at the intersection of two streets on which there are lots fronting both streets within the block affected, there shall be a front yard on each street side of such corner lot conforming to the front yard depths as established above, except that the available building width of such lot need not be reduced to less than thirty (30) feet. No accessory building on such lot shall project beyond the front yard line as established for either street.

(B) In the A District:

No building or structure shall be erected or altered so as to project beyond a line which is thirty-five (35) feet distant from any adjacent street or highway line nor nearer than one hundred (100) feet distant from the center line of any adjacent State or Federal Highway, whichever is the greater distance from the highway line.

(2) SIDE YARDS

(A) In the A, R-I, and R-2 Districts:

Each lot shall have a side yard between the side lot line and the building line of the principal building as follows:

1. A minimum distance on each side often (10) feet.
2. A total distance on both sides of twenty (20) percent of the lot width except that the total side yard widths on both sides need not be more than twenty (20) feet.

(B) In the RMH District:

Each lot shall have a side yard between the side lot line and the building line of the principal building of ten (10) feet, unless abutting an R-I or R-2 District, in which case the side yard shall be fifteen (15) feet and include a screen planting.

(C) In the B and I Districts:

Where such districts abut an A, R-I, or R-2 District, no structure or building shall be erected less than five (5) feet from the line of such Districts.

(3) REAR YARD

(A) In the R-I and R-2 Districts:

1. Each lot shall have a rear yard between the rear building line of the principal building and rear lot line of fifteen (15) percent of the lot depth, except that the rear yard depth need not be more than thirty (30) feet.
2. The rear yard may include permitted accessory buildings as provided by this Ordinance, but in no case shall such accessory buildings be less than three (3) feet from the rear lot line.

(B) In the RMH District:

Each lot shall have a rear yard between the rear building line of the principal building and the rear lot line often (10) feet, unless abutting an R-I or R-2 District, in which case the rear yard shall be fifteen (15) feet from the rear line and include a screen planting.

(C) In the A, B, and I Districts:

No requirements, unless abutting an R-I or R-2 District, in which case there shall be a rear yard of five (5) feet.

(4) PONDS, PITS AND OTHER EXCAVATIONS

A minimum distance of thirty-five (35) feet shall be maintained between the property line on each and every side, and any open excavation for the purpose of pond construction, sand or gravel removal, or other purpose.

SECTION 6.30. BUILDING AREA

(1) No dwelling may be established, erected, or changed so that its ground floor area, in square feet, is less than that prescribed in the following table.

TABLE 2
GROUND FLOOR AREA IN SQUARE FEET PER DWELLING

KIND OF DWELLING	A	R-1	R-2	RMH
(A) One-story Dwellings				720
(1) Single-Family	960	960	960	720
(2) Two-Family			960	720
(3) Multi-Family			720	720
(4) Manufactured Home				720
(B) More than One Story				
(1) Single-Family			960	960
(2) Two-Family			960	960
(3) Multi-Family			720	720

(2) No non-residential structure may exceed the area below:

MXD	B-1	B-2	1-1	1-2
5,000 sq. ft./floor	1,500 sq. ft.	40,000 sq. ft.	20,000 sq. ft.	60,000 sq. ft.

(3) In the R Districts, no accessory structure may exceed the dimensions below:

- (A) On lots less than one acre in size, twenty-four (24) feet by twenty-eight (28) feet.
- (B) On lots one acre or larger, forty (40) feet by thirty (30) feet.

SECTION 6.40. LOT COVERAGE

- (1) All buildings on any lot shall not cover more than the following percentages of the total lot area:

District	A	R-1	R-2	RMH
Percent of Coverage		45	45	35

- (2) All accessory buildings on any lot shall not cover more than the following percentages of the rear yard area

District	A	R-1	R-2	RMH
Percent of Coverage		40	40	

SECTION 6.50 BUILDING HEIGHT

- (1) The maximum heights of buildings shall be as follows:

Single- or two-family dwelling	30 feet
Multifamily dwelling	35 feet
Accessory building	15 feet
Commercial building	35 feet
Industrial building	40 feet

- (2) Chimneys, domes, spires, agricultural accessory buildings (barns, silos, etc.), radio and television towers, and necessary mechanical appurtenances may exceed these height limitations.
- (3) The heights of any buildings shown on an approved development plan *or* PUD site plan may exceed these height limitations, if such plan indicates the heights and such heights are approved by the Plan Commission.

SECTION 6.60 PARKING

- (1) In the MXD District no building shall be erected or altered and no land use changed or initiated after the effective date of this Ordinance unless adequate off-street parking and loading space is provided for the residents, tenants, personnel, and patrons of such building or use. The regulations contained in this section are minimum requirements; if in the judgment of the Plan Commission, additional spaces are required in order to accomplish the purposes of this Ordinance, such additional spaces may be required. Parking and load spaces shall comply with the requirements of this section

- (2) In the MXD District, the Plan Commission may permit the use of on-street parking and/or off-site parking to satisfy the requirements of this Section.
- (3) No use lawfully established prior to the effective date of this Ordinance shall be required to provide and maintain the parking and loading requirements of this Ordinance, but such use shall comply with the following:
- (A) Parking or loading facilities in existence on the effective date of this Ordinance shall not hereafter be reduced below, or if already less than, shall not further be reduced below the requirements of this Ordinance.
 - (B) When the intensity of use of any building, structure, or premises shall be increased by any means, parking and loading facilities shall be provided as required by this Ordinance.
- (4) Off-street parking spaces and lots shall comply with the following design standards, as a minimum:
- (A) Parking areas shall be paved with an asphaltic concrete or equivalent hard surface with spaces indicated by pavement markings.
 - (B) The minimum dimensions of each, automobile parking space shall be 9 feet in width and 18 feet in length.
 - (C) Except on lots occupied by single- or two-family dwellings, each off-street parking space shall open directly upon an aisle or driveway at least 12 feet wide or such additional width and design in accordance with the following table, so as to provide safe and efficient means of vehicular access. Such aisle or driveway shall be unobstructed and shall allow for the passage of emergency vehicles at all times.

<u>Parking Angle</u>	<u>Aisle Width</u>
45°	14 ft.
60°	18 ft.
90°	24 ft.

Angle shall be measured between the center line of the parking space and the center line of the aisle.

- (D) Parking areas shall be maintained in good condition, free of weeds, trash, and debris.

- (E) Driveway entrances or exits for off-street parking other than those required for a single- or two-family dwelling or home occupation shall be no closer than 25 feet to an adjoining residential property line or 10 feet to an adjoining nonresidential property line. Shared driveways for two or more properties are encouraged, and these may be placed on or along property lines. No driveway shall exceed 30 feet in width at the edge of street pavements, except that two adjacent driveways of 30 feet in width each may be used as a single entrance-exit driveway, provided such driveway is clearly marked to indicate the direction of traffic flow.
 - (F) Parking areas shall be graded and properly drained in such a manner as to prevent free flow of water onto adjacent property, including street right-of-way. Stormwater generated by parking areas shall flow into an approved drainage system or be contained on site.
 - (G) Any lighting facilities used to illuminate off-street parking areas shall be so located, shielded, and directed upon the parking area in such a manner that they do not reflect or cause glare onto adjacent properties or interfere with street traffic. In no instance shall bare, unshaded bulbs be used for parking lot illumination.
- (5) Required off-street parking shall be located on the same premises as the use with which the parking is associated, unless a special exception for off-site parking is granted by the Board of Zoning Appeals in accordance with Section 5.00 of this Ordinance.
- (6) In interpreting the provisions of this section, the following rules shall apply:
- (A) Parking spaces shall not be considered provided pursuant to this section unless they are readily available without charge.
 - (B) In the case of mixed uses or multiple uses on a single parcel, the required parking spaces shall be the sum of the required parking spaces for the various uses computed separately, and such spaces for one use shall not be considered as providing parking for any other use.
 - (C) Where parking space requirements are based upon the number of employees, the number of employees shall mean the total number on the largest shift. For uses where working shifts are immediately consecutive, 20 percent additional spaces shall be provided to accommodate overlap.
 - (D) Gross floor area shall mean the total horizontal area of all floors of the building. Net floor area shall mean the total horizontal floor area of all floors of the building devoted to the use or uses for which parking is required, excluding any area devoted entirely and permanently to storage purposes, parking and loading facilities, restrooms, utilities, or elevator shafts.

- (E) If the unit or measurement is any fraction of the unit specified in relation to the number of spaces to be provided, said fraction shall be considered as being the next unit and shall be counted as requiring one space.
- (F) For uses not specified in this section, or in any other case where the requirement is not clear, the Plan Commission or its designee shall determine the number required, based upon the requirements for similar uses or other research indicating the number needed.
- (7) All commercial and industrial uses shall have adequate off-street loading facilities in accordance with the following requirements:
- (A) All commercial and industrial uses shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement.
- (B) Uses and buildings with a gross floor area of less than 5,000 square feet shall have adequate receiving facilities so as not to obstruct the free movement of pedestrians and vehicles over sidewalks, streets, driveways, aisles, and alleys.
- (C) Uses and buildings with a gross floor area of 5,000 square feet or more shall provide off-street loading spaces in accordance with the following table:

<u>Use Description</u>	<u>Floor Area (SQ. ft.)</u>	<u>Number of Spaces</u>
Manufacturing, distribution, wholesaling, storage and similar uses	5,000- 25,000	1
	25,001- 60,000	2
	60,001-100,000	3
	Each 50,000 above 100,000	1
Office buildings, hotels and motels, retail sales, hospitals, institutions, and similar uses	5,000- 60,000	1
	60,001-100,000	2
	Each 100,000 above 100,000	1

- (D) Loading facilities shall be located at the rear or side of the building.

(8) The following table indicates the minimum number of off-street parking spaces to be provided:

Residential Uses

1-family dwelling	2 spaces
2-family dwelling	4 spaces
multifamily dwellings	1.5 spaces/dwelling unit
boarding house, bed and breakfast use	1 space/sleeping room
retirement home, elderly housing	1 space/2 units
mobile home	2 spaces

Government. Communications. and Utilities Uses

libraries, museums, art galleries	1 space for each 600 sq. ft. of gross floor area, plus 1 space/2 employees
post office	1 space/500 sq. ft. of gross floor area plus 1 space/2 employees plus 1 space/3 post office vehicles
fire station, sewage treatment plant, weigh station, radio or TV station, public utilities	1 space/2 employees
Air, rail, and motor freight terminals	1 space/2 employees plus 1 space/vehicle maintained

Medical and Professional Uses

Sanitariums, convalescent homes, children's homes, hospitals, in-patient clinics	1 space/3 beds plus 1 space/employee
Medical office, out-patient clinic	1 space/1 00 sq. ft. of net floor area
Other professional office	1 space/200 sq. ft. of gross floor area

Commercial Uses

Retail stores (except those otherwise specified in this section)	1 space/200 sq. ft. of gross floor area
Convenience stores, supermarkets, specialty markets	1 space/1 00 sq. feet of gross floor area markets, farm
Furniture and appliance stores	1 space/800 sq. ft. of net floor area plus 1 space/2 employees
Carry-out or fast food restaurants	1 space/60 sq. ft. of net floor area plus 1 space/employee
Eating and drinking establishments.	1 space/3 seats plus 1 space/employee
Banks, dry cleaners, laundries, and similar service businesses	1 space/250 sq. ft. of net floor area
Banks with drive-up windows	10 standing spaces/drive-up window,
Dry cleaning, laundries, and similar service businesses with drive-up windows	3 standing spaces/drive-up window
Laundromats	1 space/two washing machines
Automobile service stations and repair shops	1 space/employee plus 2 spaces/service stall plus 3 standing spaces/side/pump island
Automobile sales or implement sales	1 space/200 sq. ft. of floor area in display room plus 1 space/1500 sq. ft. of outdoor display area
Barber shops and beauty salons	2 spaces/chair plus 1 space/employee
Mortuaries or funeral homes	1 space/50 sq. ft. of floor area in slumber rooms, parlors, or funeral service rooms
Hotels, motels.	1 space/unit plus 1 space/employee
Roadside stand	4 spaces

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Stables for boarding horses	1 space/3 stalls
Nurseries & greenhouses with retail sales	1 space/200 sq. ft. of gross floor area
Kennels for boarding of animals	1 space/5 pens
Day care center	1 space/3 children of total capacity plus 1 space/employee

Industrial Warehousing, & Wholesale Uses

Manufacturing plants or other industrial use	1 space/1 1/2 employees
Contractor's yards or plant storage yards	1 space/2 employees
Warehouses	1 space/800 sq. ft. of gross floor area
Wholesale establishments not catering to the general public	1 space/1 1/2 employees plus 5 visitor spaces plus 1space/5 vehicles maintained

Recreation & Amusement Uses

Auditoriums, theaters, sports arenas, other spectator establishments	1 space/4 seats plus 1 space/employee
Public assembly area without fixed seats	1 space/100 sq. ft. of floor area
Bowling alleys	5 spaces/lane
Golf courses	10 spaces/hole plus one space/employee
Tennis courts	3 spaces/court plus one space/employee
Swimming pool	1 space/100 sq. ft. of water area
Skating rink	1 space/500 sq. ft. of gross floor area
Athletic fields, parks	At least 10 percent of the total land area shall be devoted to parking
Amusement game complex	1 space/game machine

Miscellaneous Uses

Church	1 space/3 seats in the main sanctuary
Clubs, lodges, community centers	1 space/300 sq. ft. of gross floor area

SECTION 6.70**OTHER DEVELOPMENT STANDARDS**

- (1) Home Occupations: There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of home occupations, other than one sign not to exceed two (2) square feet in area, non-illuminated, and mounted flush with the front wall of the principal building. The nature of the occupation shall be such that no traffic shall be generated in greater volume than would normally be expected in a residential neighborhood, and where no person is employed other than a member or household employee of the immediate family residing on the premises.
- (2) Bed and Breakfast Homestay: The exterior of the building may be modified only if such changes are compatible with the character of the neighborhood. The only meal to be provided shall be breakfast which may be served only to guests taking lodging in the facility. The establishment may be identified by a single, unlighted sign no to exceed two (2) square feet in area.

SECTION 7.00. MANUFACTURED HOMES

The following requirements pertain to all factory-built housing in Newton County:

- (1) **PERMANENT OCCUPANCY**
Type I Manufactured Homes are permitted uses in A, R-1, R-1A, and R-2 Districts. Manufactured Home Communities are permitted uses in the R1\1H and RMHA Districts subject to the restrictions and requirements of Section 7.10.
- (2) **TEMPORARY OCCUPANCY**
 - (A) **EMERGENCY OCCUPANCY**
In the event of natural disaster or fire resulting in the destruction of a single-family dwelling, the Board may, upon petition, grant a Special Exception for the temporary placement of a manufactured home or a mobile home on the property during reconstruction of the dwelling. Such Special Exception may be granted for a period of time not to exceed six (6) months.

(B) MEDICAL OCCUPANCY

Where an emergency arises due to serious illness or need of special care due to severe physical handicap of an immediate member of the family, and proper care of such person cannot be furnished within the residence of such family, the head of such household may petition the Board of Zoning Appeals for a Special Exception as provided under Section 5.00. (1) of this Ordinance. Petitioner must satisfy the Board that suitable care can be furnished in an adjacent manufactured home. The facts regarding the illness or disability must be certified by a competent physician. The Board may grant temporary occupancy of a manufactured home for the period of such emergency but not to exceed one year. No such petition shall be granted for reasons of inconvenience, nor of a saving in expense. The provisions of Section 6.40 (1) shall apply. If such Special Exception is granted, the Board shall retain jurisdiction and may conduct further hearings and make any appropriate amendments of its orders at any time, upon notice to the parties but without requirement of public notice.

(3) NON-RESIDENTIAL OCCUPANCY

Manufactured homes, mobile homes, trailers or vans may be utilized as contractor's offices, watchman's shelters, or tool or equipment storage only on the site and during the period of construction of improvement projects by permit from the Building Commissioner. All requirements of this and other ordinances of the County with respect to water supply and sanitary waste disposal will be met and a letter from the County Health Officer so stating must accompany the application for an Improvement Location Permit for this use.

(4) NON-CONFORMING HOMES

A manufactured or mobile home placed and maintained on a tract of land and deemed to be a legal non-conforming use prior to the adoption of this Ordinance, shall continue to be a legal non-conforming use. If the non-conforming use is discontinued, the land thereafter must be used in conformity with all provisions of this Ordinance.

(5) STRUCTURAL ALTERATION

Due to its integral design, any structural alteration or modification of a manufactured or mobile home after it is placed on the site must be approved by the Building Commissioner.

SECTION 7.10. MANUFACTURED HOME COMMUNITIES: PROPERTY DEVELOPMENT STANDARDS

All provisions of the Newton County Subdivision Control Ordinance shall apply to Manufactured Home Communities unless superseded by this section.

(1) **SIZE**

A manufactured home community shall be a minimum of five (5) acres in size.

(2) **LOT SIZE**

The provisions of Section 6.10 shall apply.

(3) **SETBACK AND YARD LINES**

- (A) Manufactured homes on opposing sides of the street shall be placed a minimum of sixty (60) feet apart.
- (B) Manufactured homes shall be placed a minimum of eight (8) feet from a street pavement, a common parking area, a common walk or other common area.
- (C) The distance between a manufactured home and the boundary of the manufactured home community shall be:
1. Fifteen (15) feet when the adjoining land is used for residential purposes or a residential or feeder street.
 2. Thirty (30) feet when adjoining an arterial street or land used for any purpose other than residential.

(4) **STREETS**

(A) **PRIVATE STREETS**

Provisions must be made in every manufactured home community for a private road in front of each manufactured home lot. The streets shall be of the all-weather type, with a right-of-way not less than forty (40) feet in width, properly drained and graded and where such streets come in contact with any public road or highway, a driveway culvert of heavy reinforced concrete sewer pipe with cemented joints or continuous aluminum, iron, or steel pipe shall be installed to provide drainage. The cost of such pipe shall be defrayed by the developer of the community and the installation shall be approved by the County Highway Engineer or the County Surveyor. All streets within the community must be accessible to traffic at all times and shall be maintained in first-class condition by the operator of the manufactured home community.

(B) **APPROVAL**

Streets and alleys shall be completed to grade as shown on plans, profiles and cross-sections prepared by the developer and approved by the Board of County Commissioners. Prior to construction, preliminary plans for all streets and roads shall be presented to the board of County Commissioners for approval and recommendations regarding compliance or non-compliance with Ordinance No. 90-7

(C) IMPROVEMENT SPECIFICATIONS

Streets shall be improved in accordance with the procedures required in Ordinance 90-7.

(D) MINIMUM RADII OF CURVATURE OF CENTER LINES

Where a deflection angle of more than ten (10) degrees in the alignment of a street occurs, a curve shall be introduced, providing a minimum radius of two hundred (200) feet.

(5) DRIVEWAYS

(A) Driveways shall be provided on the sites where necessary for convenience to service entrances of buildings, to delivery and collection points for refuse and other material, and elsewhere as needed.

(B) Driveways serving a single facility, single manufactured home lot, or where used as a walk shall be minimum width of fourteen (14) feet.

(6) PARKING SPACES

(A) Off-street parking spaces shall be provided in sufficient number to meet the needs of the occupants of the property and their guests without interference with normal movement of traffic. Such facilities shall be provided at the rate of two parking spaces for each manufactured home lot.

(B) Parking spaces shall be located for convenient access to each lot. Insofar as is practical, one space shall be located on each lot and the remainder located in adjacent parking areas.

(7) WALKS

(A) Individual walks from streets, driveways, or parking spaces to individual manufactured homes shall be provided.

(B) Common sidewalks shall be provided in locations where pedestrian traffic is concentrated such as at the community entrance, office and other important facilities.

(8) RECREATION FACILITIES

(A) Recreation areas and facilities, such as playgrounds, swimming pools, and community buildings may be provided to meet the anticipated needs of the residents.

(B) Not less than five (5) percent of the gross site area shall be devoted to designed and developed recreational facilities. The minimum dimension of a recreation area shall be 50 feet each way, and the area shall not be less than 10,000 square feet.

(9). COMMUNITY FACILITIES

Essential community facilities and services such as schools, recreation areas, police and fire protection shall be accessible to the residents or provisions shall be made assuring these facilities and services. Mailboxes shall be furnished by the operator in accordance with postal regulations.

(10) WATER SUPPLY

The developer shall provide the manufactured home community with a complete water main supply system, which shall be connected to an existing approved municipal or community water system, except that when such municipal or community water system is not available, the developer shall provide one of the following:

- (A)** A complete community water supply system to be provided in accordance with the minimum requirements of the Indiana State Board of Health. .
- (B)** An individual water supply to each lot in accordance with the minimum requirements of the Indiana State Board of Health and with the provisions of Newton County Ordinance 90-3.

The plans for installation of the water main supply shall be provided by the developer and approved by the Indiana State Board of Health. Upon completion of the water supply installation, the plans for such system as constructed shall be filed with the Commission.

(11) SEWER SYSTEM

- (A)** The manufactured home community shall be provided with a complete sanitary sewer system, which shall connect with an existing sanitary sewer outlet or shall be provided with a separate treatment plant, to be provided by the developer in accordance with the minimum requirements of the Indiana State Board of Health.
- (B)** The plans for the installation of a sanitary sewer system shall be provided by the developer and approved by the Indiana State Board of Health. Upon completion of the sanitary sewer installation, the plans for such system shall be filed with the Commission.

SECTION 8.00. DEVELOPMENT PLANS

- (1)** Development plans require primary and secondary approval by the Plan Commission. Any development plan submitted for primary approval shall include the following as applicable to the project:

Proposed name of the development

Name and address of the developer

Name and address of the owner

Description of the location of the property

Map including date; scale; north arrow; approximate location, size (maximum height and floor area), capacity, and use of all buildings and structures existing or to be placed in the development
Nature and intensity of the operations involved in or conducted in connection with the development
Site layout of the development, including the location, size, arrangement, and capacity of the area to be used for vehicular access (including driveway widths, designs, and curb radii), parking spaces, loading and unloading
Names of public ways giving access to the development, and location, width, and names of platted public ways, railroads, parks, utility easements, and other public open spaces
Layout, names, and widths of proposed public ways; widths of alleys, lanes, walkways paths, and easements
Description of the use of adjacent property and drawing showing the relationship of surrounding properties to the development plan area
Location, size, and arrangement of areas to be devoted to planting lawns, trees, and other site screening activities, including a description of the types, numbers, and sizes of landscape materials to be used
Number, types, sizes, locations, heights and designs of any proposed signs
Storm drainage plan, including topographic features, appropriate contour intervals, directions of stormwater runoff
Sewage disposal plan
Water supply system
Locations and sources of all other utilities, with appropriate easements (i.e., electricity, gas, telephone)
Layout of proposed lots with approximate dimensions
Land use intensity factors (i.e., dwelling units/acre, floor area ratio, lot coverage)

- (2) After receipt of an application for primary approval of a development plan. the Plan Commission shall schedule a public hearing on the proposal. The Commission shall notify the applicant in writing of the date of the hearing, give notice by publication in accordance with IC 5-3-1, and provide for due notice to interested parties at least 10 days before the date set for the hearing. The Plan Commission shall, by rule, determine who are interested parties, how notice is to be given to them, and who is required to give that notice.
- (3) The Plan Commission may approve or deny an application for primary approval of a development plan. In approving a development plan, the Commission may impose such conditions as it deems necessary to carry out the intent and purpose of this Ordinance. If the Commission denies an application, it shall provide the applicant with the written reasons for the rejection.
- (4) In reviewing a development plan, the Plan Commission shall give consideration to any of the following factors which are relevant to the application:

General compatibility of the proposed development and uses therein with adjacent and nearby properties

Safe and convenient ingress and egress to the property and the proposed location of structures in relation to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency

Off-street parking and loading areas in relation to surrounding properties

Adequacy and availability of utilities

Adequacy and suitability of landscaping, screening, and buffering

Appearance and compatibility of any proposed signs

Suitability and compatibility of lot sizes and layouts

Appearance, size, height, intensity, and compatibility of buildings and structures in relation to the surrounding area

Any other factors which the Plan Commission deems applicable to the specific proposal

- (5) A development plan may be approved by the Plan Commission only if the Commission makes a determination that all of the following criteria are met:

The use will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the surrounding area, or to the community as a whole.

The public convenience and welfare will be substantially served

That the proposal is consistent with the goals and policies established in the Comprehensive Plan of Newton County

- (6) The Plan Commission may grant secondary approval to a development plan if it finds that all conditions of primary approval have been met. The Commission may, by rule, delegate secondary approval to a committee or person, whose denial may be appealed to the full Plan Commission. No notice or hearing is required for secondary approval.
- (7) No improvement location permit or building permit shall be issued and no site development or construction may commence in relation to a development plan until such plan has been recorded in the office of the Newton County Recorder.
- (8) No change shall be made on any approved development plan without permission of the Plan Commission. The Plan Commission may permit minor changes without notice or hearing. Any change which the Commission deems substantial shall require the same procedure as the initial approval.
- (9) Any development plan which has not been substantially put into effect five years after the date of secondary approval shall be null and void, unless an extension is authorized by the Plan Commission.

SECTION 9.00. WATER SUPPLY AND WASTE DISPOSAL

The above listed uses of lands, properties, premises, structures and buildings are, by this Ordinance, permitted only if the applicant provides written evidence that the proposed method of water supply and the disposal of sanitary wastes is in compliance with the requirements of the County Health Officer and the currently approved standards of the Indiana State Board of Health and/or the Indiana Stream Pollution Control Board.

SECTION 10.00. GENERAL PROVISIONS

(1) INTERPRETATION

The provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, morals, convenience and general welfare. The Newton County Planning Commission has given consideration to the existing and future probable use of land in the territory affected by this Ordinance, and to the Comprehensive Plan.

(2) NON-INTERFERENCE WITH GREATER RESTRICTIONS OTHERWISE IMPOSED

It is not intended by this Ordinance to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties, nor any ordinances, rules regulations or permits previously adopted or issued and which are not in conflict with any of the provisions of this Ordinance, except that, where this Ordinance imposes a greater restriction upon the use of buildings or land, or upon the height of buildings, or requires larger open spaces or greater lot area per family, than are required or imposed by such ordinance, rules, regulations or permits, the provisions of this Ordinance shall prevail.

SECTION 10.10. AGRICULTURAL ACREAGE

Agricultural property may be subdivided only under the terms of the Subdivision Control Ordinance of Newton County.

SECTION 10.20 IMPROVEMENT LOCATION PERMITS

Within the unincorporated portions of Newton County, Indiana, no structure, improvement, or use of land may be altered, changed, placed, erected or located on platted or unplatted lands, unless the structure, improvements or use and its location conform with the Comprehensive Plan and Ordinances of Newton County and an Improvement Location Permit for such structure, improvement or use has been issued.

SECTION 10.30. PERMITS ISSUED

The Building Commissioner shall issue an Improvement Location Permit, upon written application, when the proposed structure, improvement or use of land and its location conform in all respects to the provisions of this Ordinance.

SECTION 10.40. APPLICATION FOR IMPROVEMENT LOCATION PERMIT

Every application for an Improvement Location Permit shall be accompanied by a site plan, drawn to scale, showing the location of the structure, improvement, or use of the land to be altered, changed, placed, erected, or located; the dimensions of the lot to be improved; existing and proposed streets and alleys adjoining or within the lot; and the manner in which the location is to be improved. No fee shall be charged for an Improvement Location Permit applied for coincident with an application for a Building Permit; application for an Improvement Location Permit, only, shall be accompanied by a fee of one (1) dollar.

SECTION 10.50. APPEALS

Each decision of the Plan Commission is subject to review by certiorari. Each person aggrieved by a decision of the Commission may present, within 30 days to the Circuit or Superior Court of Newton County, a verified petition setting forth that the decision is illegal in whole or in part and: specifying the grounds of the illegality.

SECTION 11.00 ADMINISTRATION AND ORGANIZATION**SECTION 11.10 NEWTON COUNTY BOARD OF ZONING APPEALS: ESTABLISHMENT AND ORGANIZATION**

The Newton County Board of Zoning Appeals as established under the authority of Chapter 174, Acts of 1947 and continued by IC-36-7-4-901(h) is governed by the rules and regulations of the Board and the regulations as provided in the 900 SERIES of IC-36-7-4, as added by Acts 1981, P.L. 309, Sec. 23 which are hereby incorporated and made a part of this Ordinance.

The guidelines for the filing of petitions and appeals before the Board shall be in accordance with the policies and regulations set forth by said Board, copies of which are on file in the Office of the Building Commissioner.

SECTION 11.20. BOARD OF ZONING APPEALS: HEARINGS

Upon application for:

- 1) special exception
- 2) development standards variance, or

3) use variance

from the zoning ordinance; or upon appeal of a decision of the Building Commissioner, the Board shall hold a public hearing. Public notice setting forth the time and place shall be given at least ten (10) days before the date of the hearing in a newspaper of general circulation in the county. Interested parties shall be notified by the Board in accordance with state law and the rules of the Board.

A more detailed description of the hearings is contained in the 900 Series of IC 36-7-4 and is hereby made a part of this Ordinance.

SECTION 11.30. ENFORCEMENT

- (1) Any person may, by suit in the Circuit Court and/or Superior Court of Newton County, enjoin the violation of this Ordinance.
- (2) The Commission or the Board may, by mandatory injunction in the Circuit and/or Superior Court of Newton County, require the removal of a structure erected in violation of this Ordinance.
- (3) A use that violates this Ordinance shall be treated as if it were a common nuisance, and it may be abated in the same manners as such a nuisance.
- (4) Any person or corporation, whether principal, agent, employee, or otherwise, who violates any of the provisions of this Ordinance, shall be guilty of a misdemeanor and upon conviction, shall be fined not less than ten (10) dollars and not more than three hundred (300) dollars for each offense. Each day of existence of any violation may be deemed a separate offense.

The erection, construction, enlargement, conversion, moving or maintenance of any building or structure, and the use of any land or building continued, operated or maintained contrary to any of the provisions of this Ordinance, is hereby declared to be a violation of this Ordinance and unlawful. Buildings erected, raised, or converted, or {and or premises used, in violation of any provisions of this Ordinance, are hereby declared to be common nuisances, and the owner of the building, land or premises shall be liable for maintaining a common nuisance.

SECTION 11.40. REMEDIES AND ENFORCEMENT

Action on the violation of any provision of this Ordinance and the rights of injunction against such violation shall be as provided by the 1000 SERIES IC-36- 7-4 and all acts amendatory thereto.

SECTION 12.00. MISCELLANEOUS

SECTION 12.10. SEVERABILITY

If a part of this Ordinance is invalid, all valid parts that are severable from the invalid part, remain in effect. If a part of this Ordinance is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

SECTION 12.20. REPEALER

Ordinance #90-6, "The Newton County, Indiana, Zoning Ordinance" adopted June 4, 1990, and Ordinance #5, "Confined Feeding," adopted April 3, 1978, are hereby repealed. All Ordinances or parts thereof that are in conflict with the terms and conditions of this Ordinance are hereby repealed, provided, however, that it is not the intent of this Ordinance nor should it be the result of this Ordinance that any usage of land existing at the time or prior to the enactment of this Ordinance which was illegal or unlawful under former Zoning Ordinances or regulations should become legal or lawful under the terms of this Ordinance.

So Enacted This 18th Day Of July, 1994.

BOARD OF COMMISSIONERS OF NEWTON COUNTY, INDIANA

Russell Odell
Lyne Laffoon
James E. Rother
Attest: Patricia L. Carlson
Newton County Auditor

ZONING ORDINANCE
AMENDMENT

Zoning Ordinance 94- 1 is hereby amended to add section

VIOLATIONS BY BUILDING CONTRACTOR;

After a Building Contractor violates a building permit, zoning or subdivision ordinance three

(3) times in a calendar year, the contractor is ineligible to receive an improvement location or building permit for one (1) year, beginning on the date of the third (3rd) violation. Whenever a person, for whom the structure is to be built applies for a permit, he must disclose under the penalties for perjury, the identity of his contractor; such a person is eligible to receive a permit only if his contractor is eligible.


THIS AMENDMENT BEING DULY ENACTED this 20th day of

November 1995, shall become effective immediately upon its enactment.

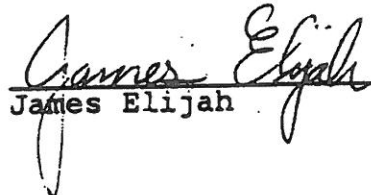
NEWTON COUNTY BOARD OF COUNTY COMMISSIONERS:



Russell Collins



Lorrie Laffoon



James Elijah

Attested by:



Marcia L. Scott, Newton County Auditor

AMENDMENT TO ORDINANCE NO. 94-1

ZONING ORDINANCE FOR NEWTON COUNTY, INDIANA

Definition of Terms, Section 2

Said Ordinance is hereby amended as follows:

BUILDING ASSESSORY: A subordinate building, exceeding 160 square feet in area, located on the same lot as the principal building which does not include any activity or use unrelated to the principal use or conducted for gain. An assessory building must be 70% constructed on the site.

So enacted this 5th day of February, 1996.

BOARD OF COMMISSIONERS OF NEWTON COUNTY

Lorrie A Laffoon
Lorrie Laffoon

Russell Collins

A James Elijah
A James Elijah

Attest:

Marcia L Scott
Marcia L Scott
Newton County Auditor

Recommended and approved for adoption the 23rd day of January, 1996.

NEWTON COUNTY PLAN COMMISSION

Shannon L Cothran
Shannon L Cothran
Secretary

AMENDMENT TO ORDINANCE NO. 94-1
ZONING ORDINANCE FOR NEWTON COUNTY, INDIANA

BOARD OF ZONING APPEALS CONSIDERATIONS, SECTION 5.10

Said Ordinance following is hereby amended by adding the following:

(3) A case which has been withdrawn by the petitioner shall not be again placed on the docket for consideration within a period of six (6) months after the date of the withdrawal.

(4) A case which has been dismissed or denied by the Board shall not be again placed on the docket for consideration within a period of six (6) months after the date of the dismissal or denial.

SO ENACTED THIS DAY 16th OF SEPTEMBER, 1996.

BOARD OF COMMISSIONERS OF NEWTON COUNTY:

Lorrie A. Laffoon
Lorrie Laffoon

Russell Collins
Russell Collins

James Elijah
James Elijah

Attested by:

Marcia L. Scott
Marcia L. Scott, Newton County Auditor

Recommended and Approved for Adoption the 11th day of
September, 1996.

NEWTON COUNTY BOARD OF ZONING APPEALS:

Shannon L. Cothran
Shannon L. Cothran, Secretary

Dublist:
Oct 7

AMENDMENT TO NEWTON COUNTY ZONING ORDINANCE 94-1

Add the following definitions to Section 2.00.:

Development Requirement - A requirement for development of real property in a planned unit development district that must be met; and conforms to Section 6.00. or Section 8.00. of this Ordinance.

Planned Unit Development District - A zoning district for which a PUD district ordinance must be adopted.

PUD District Ordinance - A zoning ordinance that does the following:

1. Designates a parcel of real property as a planned unit development district.
2. Specifies uses or a range of uses permitted in the planned unit development district.
3. Specifies development requirements in the planned unit development district.
4. Specifies the plan documentation and supporting information that may be required.
5. Specifies any limitation applicable to a planned unit development district.

Replace the current SECTION 4.70. with the following:

SECTION 4.70.PUD - PLANNED UNIT DEVELOPMENT DISTRICT

A Planned Unit Development is permitted only in a Planned Unit Development District designated by a PUD District Ordinance adopted consistent with the 1500 Series IC 36-7-4. A Planned Unit Development may be created for residential or business uses. Whenever a Planned Unit Development District is approved under the provisions of this Section, the new district shall be known as R-1, PUD; R-2, PUD; RMH, PUD; or B, PUD as the use may be and shall be so designated as such on the Zone Map.

SECTION 4.71.PLANNED UNIT DEVELOPMENT REGULATIONS

- (1) No permit shall be issued for the construction, erection or moving in of any building or structure, nor the use of any land in a Planned Unit Development District until a Planned Unit Development plat has been approved by the Commission.
- (2) PUD District: Method of Adoption
 - (A) Action for adoption of a PUD District Ordinance shall be commenced by submission of a petition to the Building Commissioner. The adoption of a PUD District Ordinance is a legislative act and shall be acted upon in the same manner as a zone map change. The Commission has adopted, by rule, procedures governing such changes. The petition for a PUD District Ordinance shall include a plot plan of the proposed development drawn to scale showing:
 1. Boundaries of the property, topography, and a proposed grading plan;
 2. Width, location and name of surrounding streets;

3. Location, dimensions and uses of all existing buildings and structures on adjacent property within one hundred (100) feet of the boundary line of the subject property;
4. Location, dimensions, ground floor area and the uses of all existing and proposed buildings and structures on the subject property;
5. Proposed landscaping;
6. Parking areas, including the size and number of spaces and the internal circulation pattern;
7. Signs, including location, size and height;
8. Pedestrian, vehicular and service ingress and egress;
9. Location, height and materials of walls and fences; and
10. Other specific uses of the property.

In addition, the following statistical information shall be provided:

1. Acreage or square footage of the property;
2. Height, ground floor area and total floor area of each building;
3. Number of dwelling units in each building; and
4. Lot area coverage expressed as a percentage of the total area of the property.

(B) Upon receipt of a petition for a PUD District Ordinance the building Commissioner shall schedule the petition for consideration by the Commission and provide public notice in accordance with IC 5-3-1.

At a legally scheduled meeting, the Commission shall consider the petition and make a favorable or unfavorable recommendation to the County Commissioners. When recommending adoption of a PUD District Ordinance, the Commission may:

1. Impose reasonable conditions on a proposed planned unit development.
2. Condition issuance of an improvement location permit on the furnishing of a bond or satisfactorily written assurance guaranteeing the timely completion of a proposed public improvement in a planned unit development or serving a planned unit development.
3. Allow or require the owner to make a written commitment regarding the planned unit development.

(C) The procedure for platting a parcel of real property that is zoned as a Planned Unit Development District is the procedure described in Subdivision Control Ordinance, Ordinance 90-7 or its successor. A PUD plat shall be accompanied by such covenants and restrictions as are appropriate

(D) Revised PUD plats may be submitted and processed in the same manner as the original PUD plat. When approved, such plat shall automatically supersede any previously approved plat.


Recommend for passage by the Newton County Plan Commission this 22nd day of October 1996.


Secretary of the Board

Approved by the Newton County Board of Commissioners this
18th day of November, 1996.


Lorrin Laffoon


Russell Collins


A. James Elijah

Attest: 

AMENDMENT TO NEWTON COUNTY ZONING ORDINANCE 94-1

The Newton County Zoning Ordinance shall be amended as follows:

SECTION 2.00, DEFINITION OF TERMS: Building, public-any building held, used, or controlled exclusively for public purposes by any department or branch of government, state, county, or municipal, without reference to ownership of the building or of the realty upon which it is situated.

SECTION 3.00, ESTABLISHMENT OF DISTRICTS: P.G.D., Public Governmental District

SECTION 4.95, P.G.D., Public Governmental District:

- 1) USES PERMITTED, all used for public purposes by any department or branch of government, state, county, township or municipal.
- 2) SET BACK YARD LINES, the provisions of Section 6.20 shall apply.
- 3) BUILDING AREA, the provisions of Section 6.30 shall apply.
- 4) LOT COVERAGE, no restrictions.
- 5) BUILDING HEIGHT, no restrictions.
- 6) PARKING, the provisions of Section 6.60 shall apply.

This Amendment shall become effective on its passage.

This Amendment passed this 16th day of December, 1996.

NEWTON COUNTY BOARD OF COMMISSIONERS:

Lorrie A Laffoon
Lorrie Laffoon

Russell Collins1 Jr
Russell Collins

James Elijah
James Elijah

Approved this 26th day of November, 1996

Eddie Watson
President, Newton Count Plan Commission

Attested by:

Shannon L Cothran
Secretary, Newton County Plan Commission